

Notice of Allowability

Application No.

10/617,021

Examiner

Jan M. Ludlow

Applicant(s)

WAKI, HIROAKI

Art Unit

1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amdt filed 4/30/2007.
2. ☒ The allowed claim(s) is/are 1,2 and 5-8.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>May 25, 2007</u> . |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date <u>4/30/2007</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

1. The following is an examiner's statement of reasons for allowance:

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

1. The examiner concedes that Abedi does not teach explicitly how signals from the UV and/or MS are used to trigger the fraction collector and that Fischer teaches using one or more UV detectors to calculate delay times in conjunction with MS and/or ELSD detectors to trigger the fraction collector, which is a use of UV and MS signals that differs from the instant use. Similarly, paragraph [0027] of Fischer teaches that the computer can be programmed to identify certain characteristics at one or more detectors and activate the fraction collector accordingly, but does not specify the instant threshold binary conversion and logical operation.

2. Note that "Autopurification Systems Fractionlynx MS, Fractionlynx UV" by Waters, published in 2001 uses only UV or MS to control the fraction collector, not both, whereas Mazza, copyright 2004, shows Fractionlynx having logical operator input to use both UV and MS.

3. Note that Kiplinger, published 1998, is vague as to how the UV and MS signals are used to control the fraction collector using Fractionlynx, and that Figure 5 does not show a Boolean operator input box, whereas Stevens, date unknown, shows a "conditional expression" box with the logical operator "AND". Rosentreter, published in 2004, also teaches UV and MS detection with logical AND operation.

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4. Note that the references cited in the Search Report for EP 03015452 are similarly vague or ambiguous as to how the signals from the detectors are used, or use the UV or MS.
5. For example, in WO 97/38303, the UV signal is used (p. 15, lines 8-14).
6. EP 1162456 teaches triggering the fraction collector by both UV and MS in the general description of the invention (p. 6, line 10), but then teaches optionally triggering by UV diode array (p. 6, line 17). Further, in the example, the triggering is by detection by UV or MS (p. 11, lines 36-40), not both. The reference does not specify how the signals are processed to trigger the fraction collector.
7. 2002/074490 teaches using the UV detector to determine which fractions should be analyzed by the MS, and does not discuss a fraction collector trigger.
8. WO 99/254452 teaches correlating data from two different detectors to identify, quantify and determine purity, and does not discuss a fraction collector trigger.
9. The cited references which predate the instant application do not clearly teach the instantly claimed "AND" operation, and only references with unknown publication dates or publication dates after the instant filing date teach the instantly claimed "AND" operation.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jan M. Ludlow whose telephone number is (571) 272-1260. The examiner can normally be reached on Monday-Thursday, 11:30 am - 8:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jan M. Ludlow
Primary Examiner
Art Unit 1743

Jml
June 26, 2007